Remarks

With respect to the changes to the specification, the temperature should be 4°C as supported e.g., in Claim 13 on page 22, in line 18. This is a clear error, and the correction should be permitted.

Applicants elect Group I, directed to Claims 1-18, with traverse.

The present application is based in international application PCT/CH04/00738. During the international phase of this application, the International Searching Authority did not raise any objection based on non-unity in the international search report, dated March 16, 2005 (unity standard in Art. 17 and Rule 13 PCT).

The USPTO Examiner, however, is of the opinion, that Groups I and II do not share a common inventive concept. The Examiner is of the opinion that this feature is obvious in view of Young et al. (Aus. J. Zool. 45(4):423-433; 1997; especially based in the abstract and page 425).

The Applicants agree with the Examiner that the common technical features shared by Groups I and II is a stem-cell like progenitor cell isolated from mammary secretions.

However, Applicants submit that the Examiner in the present application did not apply the proper standard in concluding that there is no common inventive concept. In our view, the examiner has incorrectly interpreted the disclosure of Young et al. for the following reasons.

The publication by Young et al., which does not concern a human being's mammary secretion, but the milk of a Tammar Wallaby, does not disclose the isolation of stem cells or precursor cells in milk. The only information a person skilled in the art could derive from the publication is that immune cells were present in the milk, namely

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macrophages, neutrophils, lymphocytes, eosinophils and other vacuolated cells. All the cells found in the samples differ from stem cells or precursor cells in that they are fully *differentiated* and not pluri- or multipotent any longer. There are numerous contradicting statements in the passage viewed as relevant by the Examiner (p. 425), namely the size and morphology of the cells found. In said passage, speculations are made as to what origin the eosinophilic cells found might have. However, these are mere speculations. No person skilled in the art would derive from the publication the information that the cells actually isolated were stem cells, nor would this be obvious in view of this paper to any person skilled in the art, especially in view of all the scientific contradictions contained in page 425 thereof.

The Applicants therefore respectfully disagree with the Examiner's opinion. To support the non-obviousness of the present invention, an inventor of the above-mentioned method for isolating progenitor cells, Mark D. Cregan, PhD., has issued a statement of the context of the mentioned publication by Young et al. This statement is attached as Appendix A.

The common technical feature, linking Group 1, directed to a method for isolating progenitor cells from mammary secretion, and Group II, directed to the use of the cells derived from mammary secretion by a method according to one of Claims 1-17 is *neither disclosed* in *nor obvious* in view of the Young et al. The two groups *are* based on a common general inventive concept.

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With respect to the specific species of Group I, applicants elect the following:

In Claim 1, the following features are elected – Female; mature milk; lactating period.

In Claim 10, the following feature is elected – DNAse.

This election of species is made with traverse for the reasons provided below:

Traverse for other non-elected features listed in Claim 1 and 10:

Applicants respectfully submit that the invention in Group 1 and Group II, directed to the use of the cells derived from mammary secretion by a method according to one of Claims 1-17, is based on a single inventive concept.

The main aim of the invention is to provide a novel and non-invasive isolation method for progenitor cells with stem-cell like character from mammary secretion. This, for instance, provides scientists with a new source of cells which can be used for various purposes, such as e.g., bioengineering, therapy or scientific investigations. Part of the invention is exactly the wide extent of origins of said progenitor cells, i.e., the fact that such progenitor cells can be isolated from human breast secretions, both female and male (as supported by the enclosed publication by Kulski et al.) and at various periods in time. Male secretion from patients described in said publication might be an especially interesting source of such cells, as the male secretion is not needed for feeding purposes as e.g., mother's milk by an infant. Furthermore, as claimed in Claim 10, the removal of beads from cells can be conducted using various digestion enzymes, DNAse, RNAse or proteinase, interchangeably, depending on the way the beads are linked to the cells, which is another aspect of the invention.

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Furthermore, there is no additional burden on the examiner to search both Groups I and II together, at least since information related to the subject matter claimed in Groups I and II will be found together. Applicant reserves the right to file a divisional application directed to non-elected claims 19-24 (Group II).

Reconsideration is requested

Respectfully submitted,

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Dated: August 26, 2008

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